

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION**

IN RE:

CASE NOS.:

**AMERICAN AMBULETTE & AMBULANCE SERVICE, INC.,
D/B/A MEDCORP, D/B/A LIFE AMBULANCE**

13-07673-8-SWH

COASTLINE CARE, INC.

13-07676-8-SWH

EASTERN SHORE ACQUISITION CORPORATION

13-07678-8-SWH

EASTERN SHORE AMBULANCE, INC.

13-07679-8-SWH

MARMAC TRANSPORTATION SERVICES, INC.

13-07680-8-SWH

**TRANSMED, LLC,
D/B/A TRANSMED OF GEORGETOWN, LLC**

13-07681-8-SWH

DEBTORS

CHAPTER 7

**TRUSTEE'S MOTION FOR APPOINTMENT AND COMPENSATION OF COUNTRY BOYS
AUCTION & REALTY AS AUCTIONEER**

NOW COMES Algernon L. Butler, III ("Trustee"), as Chapter 7 Trustee in the above-referenced bankruptcy cases, by and through counsel, and moves the Court to approve the Trustee's employment of Country Boys Auction & Realty ("Auctioneer/Broker") as auctioneer/broker for the estates in these cases and to approve the terms of compensation to be paid to Auctioneer/Broker, and in support hereof shows the Court as follows:

1. On December 11, 2013 the above-referenced Debtors filed petitions for relief under Chapter 7 of the Bankruptcy Code, and Algernon L. Butler, III ("Trustee") was appointed as Chapter 7 Trustee to fulfill the duties set forth in 11 U.S.C. § 704.

2. This matter is a core proceeding pursuant to 28 U.S.C. §157, and the Court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157, and 1334. The Court has the authority to hear this matter pursuant to the General Order of Reference entered August 3, 1984, by the United States District Court for the Eastern District of North Carolina.

3. Property of these estates includes approximately 575 ambulances, wheelchair vans, and other vehicles, together with additional items of personal property including defibrillators, stretchers, soft supplies, computers, radios, other and electronic/IT equipment, furniture, and office equipment (the "Property"). The Property is located between approximately 40+/- physical locations in Alabama, Kentucky, North Carolina, Ohio, South Carolina, Tennessee, Virginia and West Virginia. Most of the premises where the Property is located were leased by the Debtors.

4. In order to provide for the security of the Property, minimize administrative expenses, and maximize the value that can be obtained by liquidating the Property, it is necessary for the Trustee to employ agents to secure and transport the Property to auction yards and assist the Trustee in vacating the leased premises, and employ auctioneers to assist with the marketing and sale of the Property.

5. The Trustee desires to sell some or all of the Property at public auction or private sale, and for that purpose desires to employ Country Boys Auction & Realty as auctioneer, and/or broker to locate private sale buyers, for some or all of the Property located in NC, SC, and VA.

6. The professional services to be rendered by the Auctioneer/Broker shall include, as applicable: conducting an inventory of property to be sold and reporting the results to the Trustee; advising the Trustee of the security of the location of the assets and of any need for special handling; acquiring a location for sale and presale storage; assembling assets to be sold, including cleaning, tagging, sorting, grouping, and the set up of assets to be sold, if necessary; providing and posting of signs; providing and distribution of any sale brochures, including the payment of any postage for the same; providing all advertising text; providing for a registrar/cashier at sale; registration of bidders by name, address, and bidder number; recording each bid by bidder number, item, and amount; providing for checkout at sale; conducting sale and collection of auction proceeds and any other liquidation services for the Trustee as may be necessary for an orderly and complete liquidation; providing the Trustee with a sale report, including bid sheets of items sold, a copy of bidder registration, an accounting of receipts, a written copy of all presale announcements, and copies of all ads and brochures used with the sale; and any and all other duties set forth in the attached Contract to Auction.

7. To the best of the Trustee's knowledge, the Auctioneer/Broker is a disinterested party and has no connection with the creditors or any other party in interest or their respective attorneys or auctioneers. In support of this representation, the Auctioneer/Broker has affirmed that it is disinterested and is duly licensed and in good standing with the North Carolina Auctioneers Commissions in conformance with the North Carolina General Statute Section 85B-3 and 4. An affidavit in support of the disinterestedness of the Auctioneer/Broker will be filed with the Court.

8. The Auctioneer/Broker has agreed and understands that it is prohibited from making or allowing any sales to its relatives or other insiders, or to persons assisting it in the conduct of the auction sale, or employed by it in connection with the auction sale, or their relatives, and is prohibited from applying or charging any buyer's premium.

9. The minimum media advertising requirement for the sale to be performed by the Auctioneer/Broker shall be as follows: such advertisement as may be necessary and advisable in the judgment of the Auctioneer/Broker.

10. In return for the services enumerated herein, the Auctioneer/Broker will be compensated by a commission of 10% of the gross sales proceeds which shall include all regular expenses associated with conducting a sale, such as advertising, fliers, postage for mailings, electronic mail and signage and other out-of-pocket costs.

11. It is also necessary for the Trustee to employ the Auctioneer/Broker to provide the following services: The Auctioneer/Broker shall secure, recover, sort, inventory, photo, and transport ambulance units (operational and non-operational) and equipment located in NC, SC, and VA, including defibrillators, stretchers, soft supplies, computers, radios, other and electronic/IT equipment, non-narcotic medications and furniture. The Auctioneer/Broker shall inventory, transport and consolidate for safekeeping all medical records at the locations. All medical records and medications will be secure throughout transport from their origin to their destination selected by the Trustee for long term climate controlled warehouse storage or for disposal. The Auctioneer/Broker shall leave all locations broom-clean after final removal of assets with the exception of hazmat or other chemicals that cannot be contained through normal cleaning processes. At the time that any hazmat substance or issue is found by the Auctioneer/Broker during the clean up process of locations, Auctioneer/Broker will contact the Trustee and provide detail, solutions and costs for consideration. The Auctioneer/Broker shall provide to the Trustee as soon as possible a complete and itemized inventory of the Equipment, including all vehicles by year, make, model and VIN. The Auctioneer/Broker will coordinate access to the premises with the landlords/owner of the premises. The Auctioneer/Broker will permit Trustee's agents to assist it in coordinating and removal and preservation of assets requiring special attention such as IT/computer equipment and non-narcotic drugs. The Auctioneer/Broker shall provide the necessary drivers and/or specialized equipment for transportation of used motor vehicles from and to points designated by the Trustee.

12. In return for the services enumerated in the forgoing paragraph, the Auctioneer/Broker will be entitled to compensation and reimbursement as follows:

- a. Time necessary to leave the premises broom clean, load and transport medical and business records - \$15/man hour.
- b. Transport for Operational units to auction yard in Washington, NC - \$2.00 per mile.
- c. Units to be Towed – Any unit requiring a tow due to being non-operational or driveable, will be towed at a rate not to exceed \$3.75 per mile per unit. (Market rates for area.)
- d. On Site Vehicle Start & Roll services for “as needed only/make ready” for transport –For units that are found to not start or drive at the time that on site inventory is being provided, will provide labor and materials to attempt to start and make the vehicles driveable for transport. As for any materials needed for the start and roll services, such as a battery, cable, fuel additive, tire, etc., will replace the item and bill the cost to Trustee as a pass through cost with no upcharge on the item. Labor will be billed at a flat rate of \$15/hour and any costs incurred will be reimbursed with no upcharge to the Trustee on such reimbursement.
- e. It is understood that the exact total transportation cost may vary due to quantity and mileage changes.

13. The Auctioneer/Broker is aware of the provisions of 11 U.S.C. Section 328 and has agreed, notwithstanding the terms and conditions of employment set out herein, that the Bankruptcy Court may allow compensation different from compensation provided herein if such terms or conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of said terms and conditions.

14. The Auctioneer/Broker has agreed to accept employment as auctioneer/broker on an independent contractor basis to the Trustee, has acknowledged its direct fiduciary responsibilities to the United States Bankruptcy Court, and has consented to the jurisdiction of the United States Bankruptcy Court.

15. In this motion the Trustee seeks authority only to employ the Auctioneer/Broker on the terms set forth herein and approval of the terms of compensation to be allowed to the Auctioneer/Broker. The Trustee does not seek in this motion authority to actually sell any items of Property or to surcharge any lienholders as to the Property with any costs under 11 U.S.C. § 506(c).

WHEREFORE, the Trustee requests that the Court enter an order authorizing the employment and compensation of the Auctioneer/Broker as set forth herein, and that the Court provide such other relief as it may deem just and proper.

DATED: December 31, 2013

BUTLER & BUTLER, L.L.P.

s/ Algernon L. Butler, III

Algernon L. Butler, III

Attorneys for the Trustee

N.C. State Bar No. 20881

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Wilmington, NC 28402

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that he is over eighteen (18) years of age, and that the

**TRUSTEE'S MOTION FOR APPOINTMENT AND COMPENSATION OF COUNTRY BOYS
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in the above captioned case was this day served upon the below named persons as follows:

By electronic service through CM/ECF and via first class mail:

Marjorie K. Lynch, Esquire
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By email at the address shown below:

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DATED: December 31, 2013

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s/ Algernon L. Butler, III
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